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Rights and Wrongs of Australian Government Asylum Seeker Policy

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ABSTRACT

Worldwide, no fewer than 50 million people a year are now fleeing dangerous and often life threatening situations in their countries of origin (UNHCR, 2014c). As one part of this movement, thousands risk journeys through dangerous waters hoping to obtain asylum in Australia. However, Australian Government policies adopted since 2013 aim to ensure that no asylum seeker nor any of the 3,500 detainees held in offshore detention centres will ever be settled on the mainland. To this has now been added a declaration that none of the recent refugees or 6200 asylum seekers waiting in Indonesia in centres run by the United Nations High Commissioner for Refugees (UNHCR) will gain entry (Whyte, 2014a). These immigration policies differ dramatically from those adopted in earlier decades that produced the country's decidedly multicultural identity. This article reviews these changing perspectives of Australian governments and communities within the context of international obligations and expectations; the experiences of those directly involved in border policing practices and in detention centres; and the attitudes of national media. Relations and conflicts among the interests of the different parties are discussed and the scope for less punitive responses to the plight of asylum seekers is examined. The authors then focus on alternative processes to better address the interests and objectives of legitimately interested parties by processes which successively examine, optimise and reconcile the concerns of each. In so doing, they aim to demonstrate that such methods of sequential problem solving can respond effectively to the multiple concerns of the many significant stakeholders involved in increasingly significant global issues, whereas recourse to such single-goal, top-down programs as are expressed in the government's current determination to "Stop the boats" at all costs are unlikely to prove sustainable.

1. INTRODUCTION

Asylum seekers are exercising the most basic of human rights: the preservation of life and liberty. This article aims to examine how Australian governments are responding to these rights and what alternative might be available adopting more collaborative and problem solving methods of policy

development. We review current humanitarian commitments and their relations to evolving Australian legislation. Personal experiences of border protection staff and media reporting are considered. Methods of thematic analysis, narrative interpretation and comparative policy evaluation are applied to current refugee policy, within both domestic and international contexts.

Earlier government policies that admitted many thousands of migrants, refugees and asylum seekers have endowed Australian culture with considerable ethnic diversity, with one in four people born overseas and nearly half having at least one overseas born parent, result from (Australian Bureau of Statistics 2012; Hugo 2014; Parliament of Australia 2014; RCoA 2014). Given the country's island geography and its vast and thinly populated stretches of coastline, many asylum seekers continue to attempt arrival by boat, generating the totals represented in Figure 1, below.

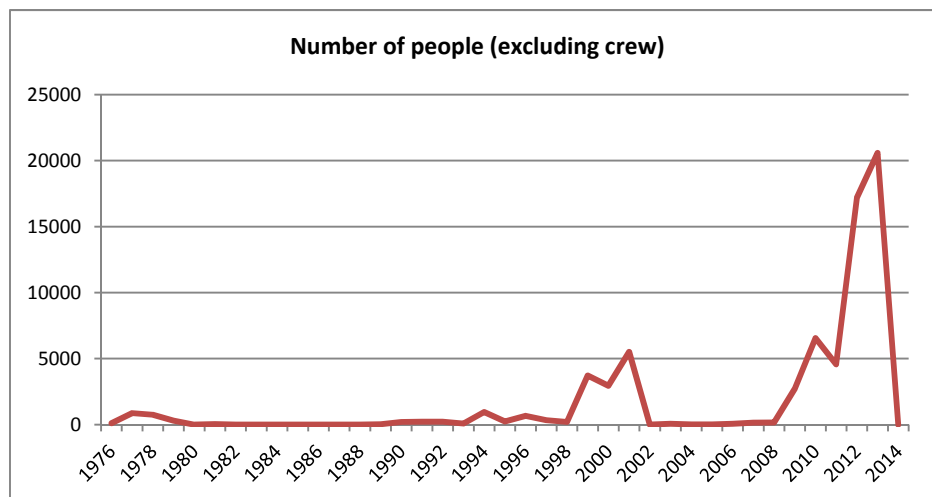


FIGURE 1: BOAT ARRIVALS IN AUSTRALIA POST VIETNAM WAR (PARLIAMENT OF AUSTRALIA, 2014)

Growing numbers of boat borne asylum seekers in the period 2008-13 have caused serious concerns that resulted in hard line responses by Australian authorities. Designed mainly to deter intending refugees, these contrasted with earlier treatment of refugees. Though enacted by both major political parties, these practices were not bi-partisan: both blamed each other for the scandal-ridden outcome of offshore processing, resulting in riots, deaths, and repeated accusations of brutality and violence. Costs also escalated, with management of the offshore detention centres, including processing, patrolling and interception, increasing by more than \$760 million from 2013 to now exceed \$2.8 billion in the 2014 budget, which is equivalent to almost half the United Nations \$5.3 billion 2013 Budget for their global operations (Australian Churches Refugee Taskforce 2014; Australian Government 2014b).

2. INTERNATIONAL OBLIGATIONS

What are Australia's international obligations to asylum seekers aiming to arrive by sea and how well are they being fulfilled by the current policy of offshore processing, detention and deterrence? An asylum seeker is defined by the UN Refugee Agency as "someone who says he or she is a refugee, but whose claim has not yet been definitively evaluated", even though they may have been compelled to arrive illegally (United Nations High Commissioner for Refugees [UNHCR] 2014a). Not only the UNHCR but also numerous other human rights groups criticise current practices as breaches of the spirit and letter of international commitments, in particular Article 31 which binds signatories not to penalise refugees for illegal entry (UNHCR 2013b; UNHCR 2013c). Other asylum seeker rights which have been breached specify access to redress by the courts; to primary education, to the right to work and to the provision of travel documents, including a passport (UNHCR 2011). Provisions to cooperate with the UNHCR and refer settlement of disputes to the International Court of Justice have been systematically ignored. The re-introduction of the offshore processing centres of Manus Island and Nauru have also been condemned by the UNHCR delegations as breaching the Convention (UNHCR 2013b; UNHCR 2013c).

Practices also conflict with the 1989 Convention of the Rights of the Child, to which Australia is a party particularly Article 22 which states that "*Children who come into a country, as refugees should have the same rights as children who are born in that country*", and Article 19 which requires that "*Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them*" (UNICEF 2014). After viewing conditions, the UNHCR Delegation to Nauru commented that "*no child, whether an unaccompanied or within a family group, should be transferred from Australia to Nauru*" (UNHCR 2013c). Conflict between Australia's international treaty commitments and its current policies and practices are widespread.

3. INTERNATIONAL PRACTICES

The issue of asylum seekers is global. Many countries face increased arrivals, now totalling over 50 million a year, dwarfing Australia's concern over boat arrivals amounting to less than half of 1% of this number (UNHCR, 2014c). International responses differ widely and the following brief summaries of current practices in the European Union (EU) and the United States of America (USA) provide examples of contrasting approaches to processing and integrating asylum seekers and refugees.

3.1. THE EUROPEAN UNION (EU)

Over the last two decades, increasing occurrences of famine, conflict and violence against ethnic minorities in Africa and Asia have generated mounting flows of international refugees. The EU received over 398,000 applications for asylum in 2013 (European Commission 2014; UNHCR 2013a). EU member states are making strenuous efforts to respond to these inescapable demands of twenty first century conditions. The Common European Asylum System (CEAS) aims to meet international legal obligations by sustainable processing and re-settlement policies, financed by the European Refugee Fund and empowered by the Family Reunification Directive. Processing centres are established at or near the boundaries of countries of arrival, and asylum seekers later nominate their chosen countries of application for admission and settlement. It is significant that in 2014 the UNHCR recommended extending this approach to include processing in intermediate countries along refugees' travel pathways (Sherwood, Smith, Davies, & Grant 2014).

The Italian experience provides an interesting comparison with Australia, since both countries have long coastlines open to those fleeing persecution. The southern Italian coast and islands are attractive landing points for many refugees from Africa and Asia. In 2013, Italy received 27,830 applications for asylum compared with Australia's 24,320. In response, Italy mounted a major rescue operation to save 3,000 asylum seekers trying to cross the Mediterranean by boat every month (Australian Broadcasting Corporation [ABC], 2014). This generous response was undertaken by a country with high unemployment (nearly 13% and over 40% for those aged 25 and younger) and considerable economic difficulties, in comparison to Australia. It is made possible by policies of planned processing, dispersion and distribution throughout the EU which result in the highest proportion of asylum seekers being settled elsewhere in the EU (European Commission 2014).

The United Kingdom's (UK) position is typical of EU member states. The country received 29,190 applicants in the year ending June 2013, of which approximately 62% were accepted with only 11.4% being held in "Detained Fast Track Detention" (UNHCR 2013a; UNHCR 2014b). Within the UK's regulatory process, review is expected to be completed within six months. After initial screening, asylum seekers are largely free to find their own accommodation, and may be given housing and living support, though they are not free to undertake employment until they have gained full refugee status. Children are no longer detained at these centres (Kwek, G 2012). While not following an "open door" policy, successive British governments of different political colours have maintained the national commitment to the letter and spirit of the 1951 Refugee Convention and 1967 Protocol (UNHCR 2014b).

These policies contrast with those of Australia. EU members have agreed to distribute new citizens throughout their constituent territories whereas Australia goes to great lengths to avoid onshore processing and proclaims, “no asylum seeker arriving by boat will ever be settled in Australia” (Morrison, 2014). Nevertheless, the EU system itself is far from perfect and has led well-informed commentators for Human Rights Watch to observe that “*Europe needs to do more to ensure that its standards apply equally everywhere, by helping those countries where procedures and conditions fall well short of the mark, and sanctioning them when necessary*”. (Williamson & Sunderland 2013).

3.2. THE UNITED STATES OF AMERICA

The USA is by far the most commonly sought destination of refugees with around 88,000 asylum applications in 2013. The annual ceiling, established under the USA’s 1952 Immigration and Nationality Act, reached an all-time high of 80,000 in 2009 (RCoA 2013). Processing is taken seriously and is regulated by continuous judicial scrutiny and appeal. Similarly to the EU policy, refugees are distributed to suitable resettlement locations with support networks appropriate to their culture. At the end of 2014, President Obama took executive action to extend citizenship rights to more than four million people including immigrants who have been in the US for five years and have children legally staying there (BBC, 2014).

Both the European and United States policies, though often stressed and contentious, involve practical commitment to planning and principle. Both avoid punitive policies offering short-term political advantages, because they are brittle and insecure. They provide no substitute for analysis of causes, consideration of options and weighing of unintended consequences.

4. IMMIGRATION POLICIES AND PRACTICES IN AUSTRALIA

The phases of Australian immigration policy since the end of the Second World War have been helpfully identified by the Refugee Council of Australia (2014) as falling into the following five periods

4.1 1945 – 1989: Human rights

Substantial post war immigration aimed to relieve labour shortages and promote prosperity. In 1947 the government agreed to settle displaced people from camps in Europe and later, in 1951, signed the Convention Relating to the Status of Refugees (Australian Government 2013; RCoA 2012). In 1958

the Migration Act regulated entry and presence of foreign nationals, their claims as asylum seekers and protection as refugees (RCoA 2014). In 1973, the introduction of the Universal Migration policy stipulating that anyone could apply to migrate to Australia – regardless of race, religion, colour, gender, or nationality – marked the end of the White Australia Policy. (Australian Government 2013).

The fall of the South Vietnamese government in 1975 and the resulting mass exodus of refugees challenged Australia's refugee program and permanently altered the country's cultural structure (Hugo 2011). Over 100,000 Vietnamese refugees were settled over the next two decades (Australian Government 2013 & RCoA 2012). By the early 1980s the refugee intake had expanded to 22,000 each year – a number not since seen previously or since in Australia's refugee intake. The Special Humanitarian Program was established in 1981 and in 1989 a special visa category was established for women at risk and their children (RCoA 2012). Strenuous efforts were made to meet Australia's international obligations under the Refugee Convention.

4.2 1989 – 1997: DETERRENCE

The following period deviated to deterrence, with the exception of the short-term response to the Tiananmen Square massacre in 1989 when the Hawke government allowed 42,000 Chinese students to remain in Australia after the massacre (Phillips & Boese 2013). Nevertheless the same government amended the Migration Act to deter “illegal entrants”, to forestall any influx of further asylum seekers following Tiananmen Square and the collapse of the Soviet Union (RCoA 2014). Under the new regulations “illegal entrants” faced mandatory deportation, with liabilities to cover the costs of detention and deportation without recourse to judicial review. In 1997 immigration detention centres were outsourced to private companies (RCoA 2014).

4.3 1998 – 2008: DIVERSION

Temporary Protection Visas (TPVs) were introduced for the first time in 1999 to categorise and restrict the work rights of refugees who arrived without authorisation in Australia. By 2000 a number of detention centres had been opened around the country and became scenes of protests of hunger strikes, lip sewing, violence, and detainee escapes (RCoA 2014).

In 2001, after refusing entry to the Norwegian SS Tampa carrying 439 rescued asylum seekers, the Howard government introduced the Border Protection Bill allowing the government power to

remove any ship from Australian waters and to refuse the asylum applications of those on board (RCoA 2014). Soon after, Prime Minister Howard adopted the “Pacific Solution” involving off shore processing and detention; famously stating *"We will decide who comes to this country and the circumstances in which they come"* (Clarke 2011). Under this policy, asylum seekers were intercepted by the Australian Defence Force and sent to Australian-funded detention centres on Christmas Island in the Indian Ocean, the Pacific Island Republic of Nauru, and Manus Island in Papua New Guinea. Later in 2001, the SIEV X sank with 421 passengers on board, resulting in the death of an estimated 146 children, women and men (Commonwealth of Australia 2002).

Condemnation from international and domestic human right organisations involved concerns about the treatment of asylum seekers and inadequate information about this to the Australian public. The UNHCR argued the policy contravened both the International Covenant on Civil and Political Rights and the UN Convention on the Rights of the Child. (RCoA 2014). In 2004 the Australian Human Rights Commission (AHRC), found that children had suffered numerous and repeated breaches of their human rights, were not receiving adequate health care and education, and experienced high risks of mental illness. The following year, the UN Committee on the Rights of the Child recommended conditions is brought up to international standards and that children be assessed within 48 hours (RCoA 2014). Despite amendments to the Act, detention centres continued to include family units, a babies' compound, childcare centre and classrooms (Department of Immigration and Border Protection 2013b & RCoA 2014).

4.4 2008 – 2010: FORMAL COMPLIANCE

The newly elected Rudd government initially complied with international obligations by abolishing the Pacific Island detention centres, removing refugees from Nauru and Manus Island, disbanding mandatory detention and abolishing TPVs, referring to them as *“one of the worst aspects of the Howard government’s punitive treatment of refugees, many of whom had suffered enormously before fleeing to Australia. There is clear evidence that the TPV arrangements did nothing to prevent unauthorised boat arrivals”* (Parliament of Australia 2008). In 2010 the government announced that it would move children and vulnerable family groups out of immigration detention facilities and into community-based accommodation (RCoA 2014). After this brief period of humanitarian immigration policy, the same government later abandoned many of these principles, seemingly in response to public opinion and looming election campaigns.

4.5 2010 – 2014: ISLAND FORTRESS

In late 2010 a ship foundered off the coast of Christmas Island and approximately 50 asylum seekers drowned. In early 2011 protests and hunger strikes continued in many detention centres across Australia, resulting in five deaths in immigration detention occurring in just over six months.

In 2012, the Australian Government commissioned the Joint Select Committee on the Immigration Detention Network to advise on the best way to manage the asylum seeker issue. Recommendations that detention centres be regarded as a last resort, limited to 90-day time stays, and that the Minister be replaced as guardian for unaccompanied children were ignored. However, a six week consultation undertaken by an ‘expert panel’ chaired by retired Chief of the Defence Force Angus Houston recommended reintroducing offshore processing centres (OPCs) on Nauru and Manus Island and increasing the refugee intake to 20,000 per year (Australian Government 2011) were accepted. It appears the government comprehensively ignored the Joint Select Committee’s recommendations and endorsed all 22 recommendations made by the Houston Panel. This resulted in Nauru and Manus Island processing centres being reopened in August 2012 and transference of asylum seekers including families with young children to these centres.

During the course of the 2013 election campaign, the “Stop the boats!” policies canvassed by the Opposition Liberal- National Party Coalition were also adopted and implemented by the then Labor government, in an apparent attempt to placate opinion poll reports of public attitudes. A hastily arranged “Regional Resettlement Arrangement” with the Papua New Guinea (PNG) and Nauru governments in July 2013, required all asylum seekers arriving in Australia waters to be transferred to PNG or Nauru for processing; if found to be refugees they would be settled there permanently without the possibility of ever being admitted to Australia. Not long after, the number of children in detention centres reached an all-time high of nearly two thousand (RCoA 2014).

The success of the “Stop the boats” slogan contributed to the Coalition’s victory in the 2013 election, and the incoming government introduced “Operation Sovereign Borders” to implement the policy. Initially failing to win majority support in the Senate to reintroduce TPVs, they introduced instead the Temporary Humanitarian Concern visas with similar restrictive conditions as those seen in the TPVs (RCoA 2014). A riot in the Manus Island OPC in February 2014 resulted in the death of one man and the injury of 62 others. An investigation found workers at the centre were responsible for the 23 year old’s death (Anderson 2014; Bourke 2014; Cornall 2014). At the time of the announcement of the AHRC inquiry into how child detention affects the health, wellbeing and development of children more than 1,000 were being detained in closed facilities (AHRC 2014).

5 CURRENT IMMIGRATION POLICY

Irrespective of whether they have valid grounds for seeking asylum, the Department of Immigration and Border Protection (DIBP) applies two categories of definition to those without relevant visas: ‘unauthorised maritime arrival’ (UMA) and ‘unlawful non-citizen’. In line with this threatening interpretation, the Act authorises immigration authorities to intercept and divert boats attempting to land in Australia. Officers may stop and board vessels at any time on suspicion that there is an unlawful non-citizen on board, may use ‘reasonable force as necessary’ and may detain suspects, with mandatory transferral to an OPC for an indefinite period. Irrespective of international obligations or domestic laws, the Act now ordains that all processing be undertaken in the designated RPCs, on the basis of ‘national interest’.

Once at an OPC, protection visas may be granted only if the Minister is convinced that international obligations are involved and that an asylum seeker’s life will be in danger if returned to their place of origin. The act’s insistence on specific danger to each individual disregards the reality that thousands are frequently forced to flee in mass conflicts such as the Syrian civil war resulting in a confronting two million refugees (Lane, 2013). A further provision applying equally to children and adults requires that legal support be explicitly *requested*, reducing likelihood of legal redress. No recourse is available to a refusal of a protection visa except Ministerial discretion, which is rarely exercised.

6. VULNERABLE ASYLUM SEEKERS

No special treatment is available to the most vulnerable asylum seekers. Women, the elderly and the disabled are not legally distinguished and children are treated much the same as adults. Among the most vulnerable are those children under the age of 18 unaccompanied by family or guardians, who are processed in accordance with the Immigration (Guardianship of Children) Act 1946. This prescribes that the Minister for Immigration shall be the guardian of every unaccompanied non-citizen child with the same rights, powers, duties and obligations as a natural guardian until the child reaches the age of 18 or leaves Australia permanently – when the child becomes subject to the laws of the host country. Nothing in the Act can be interpreted as preventing enforced removal from Australia. So, paradoxically, the Guardianship Act that was first established to protect children makes no distinction between adult and child in the circumstances of forcible removal. The Minister with the final decision on visa applications and detention must conversely act as the child’s guardian (Crock 2006). This impossibly conflicting position permits the Minister to act as a legal guardian

whilst also administering policies, which place a higher importance on immigration control than the interests of the child.

Despite government policy that children will not be held in immigration detention centres and the parliamentary principle that “a minor shall only be detained as a measure of last resort” (S4AA.1) over 1,000 children were being held in detention in mid 2014 (AHRC 2014). The Refugee Council of Australia (2014) argues that families and children placed in “alternative places of detention” are still denied freedom of movement and face strict conditions.

6.2 ASYLUM SEEKER CONDITIONS STUDY

In July 2013, the Department of Immigration and Citizenship commissioned a large-scale qualitative study on “The Experience of Irregular Maritime Arrivals Detained in Immigration Detention Facilities”, from the University of New South Wales (University of New South Wales 2013). The study investigates ways of mitigating the experience of asylum seekers in onshore Immigration Detention Facilities (IDFs) and explores how positive outcomes could be achieved. Four necessary reforms are identified:

1. Streamline application processes;
2. Clarify length of periods of detention;
3. Reduce overall time of detention; and
4. Assist integration with local communities

The report also concludes that children and young people are exposed to risks, which extend not only to their own mental states, but also to those of their carers. In such cases of psychological stress, early intervention is recommended to reduce vulnerability and demoralization (University of New South Wales 2013). Although Government policies have changed to place deterrence above all since the report was published, the findings are still highly relevant as they identify positive steps to promote the wellbeing of asylum seekers, bringing national policies into line with Australia’s long term international obligations.

7 OPERATION SOVEREIGN BORDERS

Operation Sovereign Borders, now expanded into the Australian Border Force, is a military-style border security operation that is intended to deter, disrupt, and prevent entry and ensure that boat-borne asylum seekers never reach Australia (Australian Government 2014a). It aims to increase

offshore processing capacities, turn back boats by interception, deny refugee status to those who are believed to have destroyed their documentation, or who arrived “illegally” in Australia by boat under the previous Government (ACBPS 2014b; Asylum Seeker Resource Centre [ASRC] 2013). The ASRC argues the government is essentially treating those seeking asylum as a security emergency rather than a humanitarian issue and *“is presenting itself as a country which is willing to push our moral and legal obligations onto countries which are far less capable of coping with them”* (ASRC 2013).

Government figures show that almost no UMAs have been transferred to immigration authorities for processing since 20 December 2013, and that decreasing numbers held on Christmas Island have resulted from steadily increasing transfers to Nauru and Manus Island (ACBPC 2014). Although in line with the election promise of stopping the boats, this has resulted in problems of stress and despair climaxing in riots and deaths in custody.

8 INTERNATIONAL AND REGIONAL TENSIONS

Numerous United Nations bodies, Amnesty International, the Refugee Council of Australia, the AHRC, and the Joint Select Committee on Australia's Immigration Detention Network have produced reports criticising the government's policies at every stage of the various immigration programs. As long ago as 2002, after visiting Australia's immigration detention facilities, the former Indian Supreme Chief Justice and UN Envoy, Rajendra Bhagwati wrote a report that condemned the current practices, as contravening the International Covenant on Civil and Political Rights and the UN Convention on the Rights of the Child, observing that many children were *“traumatised and led to harm themselves in utter despair”* (RCoA 2014).

Australia's treatment of asylum seekers is still viewed in a no less negative light by the international community. After OPCs were reopened in 2012, Amnesty International condemned the Nauru detention centre as *“a toxic mix of uncertainty, unlawful detention and inhumane conditions creating an increasingly volatile situation. the human rights of these men are being breached by both the Australian and Nauruan Governments”*. Not a month later, the UNHCR concluded that *“the transfer of asylum-seekers to ... harsh and unsatisfactory temporary facilities, within a closed detention setting, and in the absence of a fully functional legal framework ... to assess refugee claims, do not currently meet the required protection standard.”* (RCoA 2014).

In late 2013, the UNHCR described Manus Island conditions as “*below international standards for the reception and treatment of asylum seekers*”, paying particular attention to the harsh physical conditions, mandatory and indefinite detention, lack of adequate safeguards and shortcomings in the legal framework for refugee status determination. The UNHCR also identified breaches of the International Covenant on Civil and Political Rights by indefinitely detaining refugees who had failed security assessments. They recommended closure of the facilities and transfer of all asylum seekers to mainland Australia for; processing of their claims. The Australian government is well aware of these United Nations criticisms and in a statement in early 2014, the Minister for Immigration stated, “*The UNHCR has been a long term opponent and critic of the Coalition's strong border protection policies both in Government and in Opposition*” (ABC News 2014).

In addition to human rights issues, these policies and practices have increased conflict with regional counterparts. Among recent consequences have been occurrences of the Australian Navy crossing into Indonesian waters following official instructions. On the 15th of January 2014, the Immigration Minister admitted that “*Border Protection Command assets had, in the conduct of maritime operations associated with Operation Sovereign Borders, inadvertently entered Indonesian territorial waters on several occasions, in breach of Australian Government policy*” (ACBPS 2014b). An internal review in February 2014 found Indonesian waters were breached six times (Bourke 2014). The tensions resulting from these events were only exacerbated by the allegations of Australia spying on Indonesian authorities, which surfaced in the media at the same time (Hartcher 2014). The Australian Immigration Minister explained that they were all “accidental” and “highly regrettable” however a spokesperson for the Indonesian Navy argues, “*In this day and age, navigation equipments to determine [the] position of war vessels are very modern.... It was baseless for them to say that what happened was unintentional or a form of ignorance*” (Bourke 2014).

At the end of the year Australia’s unilateral decision to cut off access to Australia for asylum seekers in Indonesia processed after July 1, 2014 resulted in a vehement protest by the Indonesian Foreign Minister (Whyte, 2014b). This action also raises doubts over the genuineness of claims that the main motivation of deterrent policies concerns illegal methods of entry and dangers of loss of life in leaky boats, rather than determination to avoid responsibility to help meet the global problem to provide protection for refugees

9 EXPERIENCES OF BORDER PROTECTION PERSONNEL

The experiences and perceptions of those directly affected by the policies are also important to understand. Two recently published personal accounts, by Mark Isaac in “The Undesirables” (2014) and Paul Toohey in “That Sinking Feeling” (2014) provide first hand records of human impacts. Toohey (2014) describes the low level of their need for security as a perceived advantage– because there is nowhere for escapees to go. The current authors have also benefitted from informal discussions with a client service officer currently working in one of the offshore processing centres. The client service officer (CSO) who requested to remain anonymous will be referred to as Lee for the purposes of this summary.

Lee supports the current detention centre approach and defends conditions as “better than Somalian refugee camps”. He observes that family and singles camps are two very different environments with the family camp having better conditions than the singles camp. Often, asylum seekers lie about their relationships or age in order to get into the family camp and to improve their chances of transfer to Australia. Whereas family camp accommodation has rooms with sheets as doors, the singles camp is one large room with open bunk beds and no privacy screening. Lee believes that the singles camp is safer for detainees because the CSOs are able to walk around the bunks and see everything, whereas in the family camps they are not permitted to open the sheets which he believes is a risk as people may be self-harming in their rooms and there is no way of knowing.

Lee described the children currently living in the OPCs, ranging from 9 months to 17 years old, as “running wild” and agitating the staff. He observed they are not disciplined because their parents may not see the point in such an environment and believed they would be “messed up” for the rest of their lives. Although sent to school in the local community, they are taught in separate classrooms from local students and the school is surrounded by security. In return for providing schooling, the local government receives Australian government funding which Lee believes provides the sole incentive for the arrangement.

Although officially responsible for detention centres, Lee’s believes local governments play minimal roles and act on instructions from the Australian Department of Immigration and Border Protection (DIBP). He explains that the longer they keep asylum seekers on the refugee list, the more money local governments receive, constituting the main reason that impoverished local governments accept RPC agreements.

The impact of participating in these processes inevitably affects centre staff. Lee’s original sympathy with the asylum seekers has waned over time, partly influenced by interactions with some

particularly “belligerent” individuals from “more privileged lives”, who like to “test the boundaries”. interpreted by commentators including Isaacs (2014) and Toohey (2014) as a result of boredom and naturally assertive cultures of origin. Lee explains that some colleagues now “hate the detainees”, an attitude also identified in Isaacs’ (2014) account. All the CSOs are former army personnel, most of who have been involved in conflicts in the Middle East. Lee believes his own attitude and that of his colleagues has been significantly affected by this previous Defence service, contributing to some of the hatred and dislike toward certain cultural groups.

Asylum seekers are very aware of the Abbott government’s policy of stopping the boats at all costs therefore preventing any asylum seekers from settling in Australia (Toohey 2014). Detainees know that once they are processed they won’t be admitted into Australia so they hope to go to New Zealand and then coming on to Australia. Lee believes that the DIBP knows their intentions and speculates that in a few years DIBP will shut out New Zealand immigrants.

Lee believes that the reason for use of the OPCs is that they are restricted by fewer human rights laws. He sees the Australian government as “protecting the Australian way of life” but paying a high price to do so, explaining that it costs millions just to get water to the OPC. Lee makes no reference to human costs, only monetary ones.

10 EVOLVING PERSPECTIVES OF THE AUSTRALIAN MEDIA, COMMUNITY AND LEADERSHIP

9.1 Media Attitudes

Because the “Stop the boats” slogan was so important in the incoming government’s election campaign, the asylum seeker issue attracted significant media attention. Media criticisms of the suppression of information about asylum seekers arriving in Australian waters struck an answering chord among many of the Australian public (Hall 2013). Polls conducted in 2013 and 2014 identified that 87% and 74% of respondents respectively were in favour of releasing asylum seeker numbers into the community and believed the government should be more open (Hall 2013 & Sydney Morning Herald, 2014). Although these polls indicated a want for more information, a majority of the public also appears to support the existing punitive policies, associated with possible misunderstanding of the facts. A poll conducted in early 2014 found that 59% of people believed most of those seeking asylum by boat were not genuine refugees – even though, in fact, up to 97% have been determined as such by government staff (Dorling 2014). The poll also found that 60% of respondents wanted the Abbott government to “increase the severity of the treatment of asylum

seekers” and 59% didn’t believe refugees should receive government welfare support (Dorling 2014).

However, media attention has recently been drawn to the previously untold stories of the real effects of the policy, including mistreatment of asylum seekers alleged against navy sailors (News Limited 2014); children mistakenly being detained in adult camps (Laughland 2013); condemnation of the treatment of vulnerable asylum seekers by the Archbishop of Australia (AAP 2013); and the United Nations warnings that turning back boats breaches international law (ABC News 2014). More recently there have been reports that both the United Nations and the AHRC disprove placing children in detention centres (Farrell 2014; Ireland 2014; Sydney Morning Herald 2014; Triggs 2014). One report of a medical consultant on Christmas Island includes drawings, depicting children’s distress at their life behind bars while others played outside (Figure 2). Figure 4 depicts Prime Minister Tony Abbott pointing a gun at a 7 year old with text saying they have been in the camp for 8 months and if they go back to Iran they will die.



Figure 2: Children’s distress at life behind bars

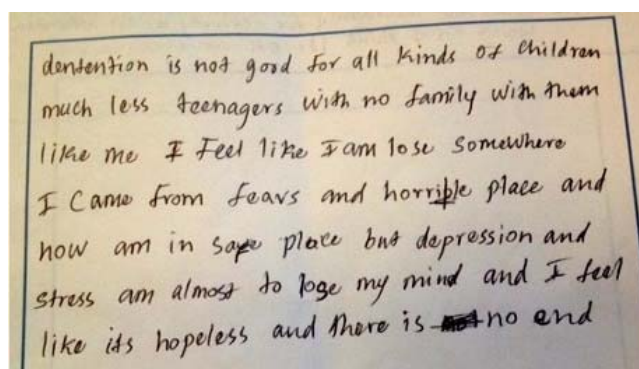


Figure 3: Iranian child’s description of detention on Christmas Island

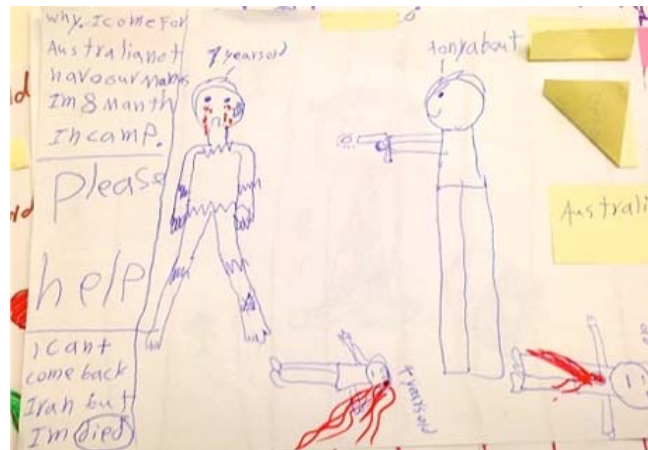


Figure 4 : Child's image of Prime Minister Abbot and asylum seeker child

The media is also increasingly interested in the dramatically bad conditions prevailing within the detention centres. Reports have included numerous scathing allegations of violence, sexual assault and racism against detainees (Farrell 2014, Whyte & Gordon 2014). Significant questions have been raised about the 2014 incident resulting in the death of an Iranian refugee at the Manus Island detention centre. Conflicting accounts and Government secrecy have only increased media interest giving rise to headlines such as “Death on Manus Island: the government is offshoring the accountability” (Keane 2014); “Manus riots illustrate a failure of Australia’s refugee protection” (Phillips 2014) and “Stop transfers until we have answers” (Gordon 2014).

Genuine concern and frustration with the veil of secrecy have caused a majority of the media to criticise lack of refugee protection. As situations in detention centres have deteriorated, suppression of information and widespread condemnation by international and domestic human rights advocates have increased public concern. In an article in “The Age” Gordon (2014a) stated that *“Yes, the boats have stopped coming. But at some point there will be a reckoning on the price that has been paid, including the damage done to those in offshore detention and the leverage lost when it comes to encouraging others to behave like model international citizens”*.

9.2 Hardening Political Attitudes

Nevertheless, current asylum seeker and refugee policies remain heavily reactive and punitive. In November 2013, the Minister stated, “I want to stress all those on Christmas Island who are there now - those who arrived after July 19 will be going to Nauru or Manus Island. There will be no exceptions, whether you're Syrian, Iranian, single, married, adult, child, they will all be going to

Nauru or Manus Island and will not return to live in Australia." (Whyte, 2014) Now, however, he is proposing that those who arrived by boat might be offered "temporary protection visas" and allowed to live in the Australian mainland community, but given no long-term security of rights of settlement. This major policy backflip by the Abbott government is could signal a disintegration in the exclusively offshore holding policy that the government has vehemently defended, but now concedes has its "challenges"(Whyte, 2014)

An example of one of these challenges is the 2014 attempt of the Australian government to return Tamil asylum seekers to India or Sri Lanka, a process, known as *refoulement*, which is banned under the UN Refugee Protocol. After the High Court of Australia intervened to prevent this breach, the 157 asylum seekers, including some 50 children, were sent to offshore processing centres. Now, however the government has introduced legislation authorising return to countries of departure, where it can be arranged. The bill would over-ride those powers being invalidated "because a court considers there has been a failure to consider ... Australia's international obligations" (Doherty, 2104)

11 POLICY OPTIONS

The passage of such legislation restricting the rights of asylum seekers, refugees, and unaccompanied children highlights the rising role of populism within Western representative democracy, through a potent mix of business interests, media control and political opportunism. Examples of alternative approaches, such as those adopted in the EU and USA, which include opportunities for planned dispersion, are ignored, although they are well suited to a country as sparsely populated as Australia. Strongly polycentric demographic and economic structures would assist such policies.

Despite being a signatory to a number of international protection conventions and protocols that have not been renounced, the Government has repeatedly resorted to militaristic practices breaching these agreements. These policies bring their own costs. Conflicts with other affected regional governments have damaged relationships that are likely to remain strained as long as existing practices continue to infringe their sovereignty. Fellow signatories of international protection laws, including Indonesia are likely to continue to condemn such practices. The downward spiral to practices aimed at total exclusion of boat-borne refugees and asylum seekers has damaged Australia's international reputation.

These expensive policies are being adopted at times of imbalanced national budgets. Widely researched and recognised social and economic benefits contributed by both first and second-generation refugees are being ignored (Hugo 2011; Teixeira, Lo, & Truelove 2007). Although refugees and asylum seekers have been shown to make significant contributions to the Australian economy in a number of ways there has been an exclusive focus on the alleged illegality of their means of arrival and the costs of resettling and processing without consideration of such benefits. (Hugo 2011). Nor is adequate attention being paid to such human and social costs as the suffering of the asylum seekers, the traumas of border protection and immigration staff and the health of the national psyche. Because current policies are largely unsubstantiated by comparative research, with seemingly little attention to unintended consequences, they may prove difficult to justify in international arenas. Warning signs of mounting conflict with major stakeholders need to be addressed. Options need to be developed and evaluated.

What concerns might other policy options pursue? Five themes emerge from the foregoing review

1. Australia is not upholding the international obligations to which it has voluntarily agreed.
2. Past Australian refugee and immigration policies suggest alternative more positive and humanitarian options.
3. The impacts of current policies are increasing tensions with international and regional counterparts.
4. Personal accounts of custodial staff indicate dangerous deviations from acceptable practices, with implications not only for workers and asylum seekers but also for the wider Australian community.
5. Confusion and misunderstanding are resulting from constraints on prompt and accurate reporting causing concerns over loss of rights to information and freedom of speech.

Drawing partly upon successful practices adopted elsewhere, Figure 5 integrates consideration of these options in a systematic process to develop relevant policies to meet stakeholder objectives

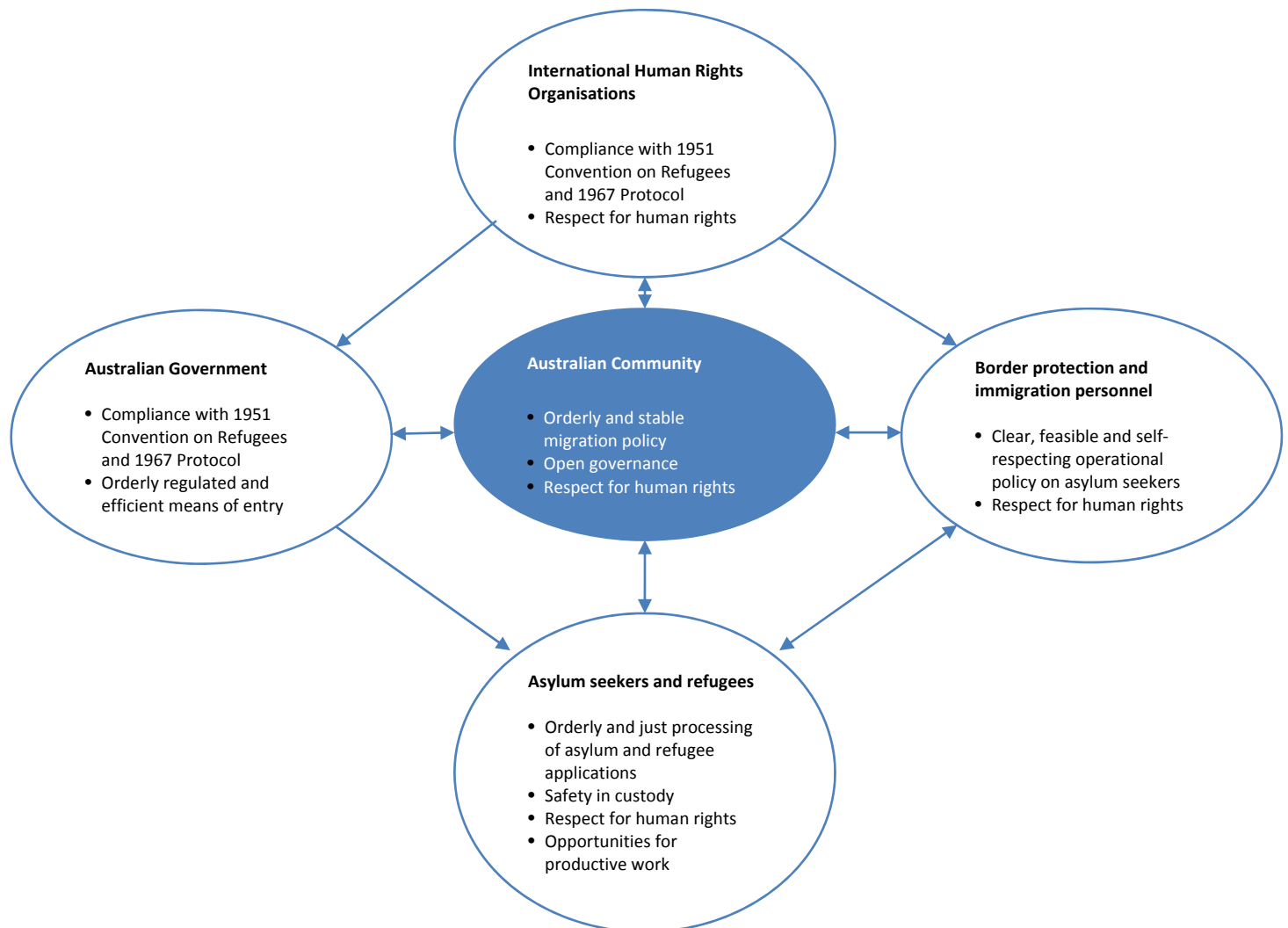


Figure 5: Stakeholder goals & relationship

These optimising methods are designed to reconcile and fulfil multiple objectives, generated by the global scale and impacts of contemporary developments in technology; social organisation and communications Successive attention is devoted to:

- Stakeholders' Goals, Objectives & Options
- Analysis of Objectives and Synthesis of Policy Areas

- Integrated Strategy for determining Refugee Status and Re-settlement in Australia
- Implementation of Integrated Strategy
- Conclusions for policy and method

It is clear that this method contrasts with that currently being adopted, which aims to satisfy a single goal.

11. STAKEHOLDER GOALS AND OPTIONS

Five groups of major stakeholders and participants are indicated on Figure 5, Stakeholder goals and relationships:

11.1 The concerns of the *international community* are specified in conventions and protocols to which Australia is a signatory. The 1951 *Refugee Convention*, the 1967 *Protocol Relating to the Status of Refugees* and the *International Convention on the Rights of the Child* describe the duties to provide support and succour for all asylum seekers and their children (UNHCR, 2011, UNICEF, 2014). A number of non-government organisations (NGOs) such as Oxfam, Care, Amnesty International, World Vision and Medicin Sans Frontiers share and promote this commitment to basic human rights to survival and self-development.

11.2 *National governments*, by contrast, have to balance their humanitarian commitment with the concerns of their own electorates. Resulting attitudes may vary from the proactive political leadership adopted by Prime Minister Malcolm Fraser and opposition leader William Hayden to the 100,000 Vietnamese refugees who came to Australia between 1976 and 1983 and were subsequently successfully integrated into Australian society (Hugo, 2011; Burnside, 2014); and the reactive rejection of responsibilities to people outside of their current electorates, which resulted in the “Pacific Solution” of deporting asylum seekers to Pacific island states before they could set foot on Australian soil, as developed by the Howard government in the period 2001- 2008, and expanded under the subsequent Gillard Rudd and Abbott governments, and is now being energetically enforced by Minister of Immigration and Border Protection Minister, Scott Morrison (Zander, 2014).

11.3 *Existing national communities* may hold complex, conflicting and changing attitudes to asylum seekers. Long established residents may fear dilution of national culture, or be concerned about competition for jobs, in times of technologically fueled economic restructuring. Others may

themselves be recent arrivals or have friends or relations in the countries of origin, or be concerned to prevent national governments setting dangerous precedents infringing human rights of legal and constitutional access to the courts and freedom of information. Resulting policy preferences may vary all the way from concern to check that asylum seekers are law abiding and responsible, and that the costs of social and physical infrastructure to meet their needs does not divert funds from entitlements of the host community to guarantees that governments deal with everyone in open, fair and consistent ways, observing international commitments and humanitarian national traditions. In this diverse ethical environment, reactions may also vary along a continuum extending from “No refugees in my backyard” to “Send not to ask for whom the bell tolls: it tolls for thee!” and are much influenced by the justifying narratives and rhetoric of national leaders and opinion formers.

11.4 *Asylum seekers and refugees* searching for refuge from extreme and life threatening persecution are frequently prepared to accept a wide variety of conditions of entry in return for safe places to dwell and earn their livelihoods. Often driven by desperation, they tend to believe that no destination can be as bad as those they are fleeing, and focus on prospects of shaping better lives for themselves and their families through making major contributions in their new homes. Hugo, in his study of *The Economic, Social and Civic Contributions of First and Second Generation Humanitarian Entrants*, undertaken for the then Department of Immigration and Citizenship, demonstrates that humanitarian settlers have made important contributions to Australia’s economic and social development, both quantitatively, by their statistically significant willingness to satisfy important shortages in the labour markets that are unattractive to others; and qualitatively by their greater capacity to take initiatives, become successful entrepreneurs, and play prominent roles in social and philanthropic life (Hugo, 2011).

In the longer term, refugees have contributed significantly both individually and to the life of the wider community and economy. Hugo highlights their roles as risk-taking entrepreneurs and workers willing to move to where the jobs are. He identifies the diversity and cultural capital that they contribute and argues that these far outweigh the cost of processing and resettlement. He emphasises their contribution to the three Ps of Population, Participation and Productivity, pointing out that refugee-humanitarian settlers are younger than other migrant groups with higher levels of fertility than Australian born women, and that they are increasingly settling in regional Australia where development would otherwise be impeded by lack of labour and declining resident populations. Most significantly, he emphasises the contribution that their younger population structure, concentrated in the working age groups, can make to the national economic and social vitality of an otherwise ageing

population and the high participation and productivity rates of second-generation settlers. His research indicates a strong desire to contribute to their own advancement and that of their families and their host communities (Hugo, 2011).

11.5 *Border protection and immigration personnel* of Australia and other potential host countries may also find themselves in inherently difficult and sometimes conflicting situations. They are responsible to their national governments for enforcing adopted policies, but they must beware of trespassing into behaviour proscribed by international law, including conduct that threatens the life or limb of innocent third parties. While their military training may have alerted them to the rights of civilians, and their roles as custodians of the welfare of women and children, they may find themselves in the invidious position of people instructed by their governments to undertake punitive actions – metaphorically to “Go and punch him on the nose and tell him I sent you!”. Their positions may thus entail physical, moral and judicial dangers. They require clear and explicit policies that are both legally and morally valid.

12. Analysis and synthesis of objectives within policy areas and arenas

Embedded in the challenge of how best to respond to predicted large and fluctuating flows of refugees is the interesting methodological question of how best to resolve complex planning problems involving numerous stakeholders with potentially conflicting interests.

12.1 Derivation of Objectives

Table I: Stakeholders, Goals, Objectives, and Arenas & Options summarises their main imputed objectives and indicates arenas of operation and options that might satisfy them. **Figure 2** presents a ‘solution tree’ identifying the objectives, policy areas, strategies and relationships that can be processed to form a viable strategy. Successive stages can eliminate misfit among objectives and their associated proposals, working from the bottom upwards. This approach to synthesis in solving multi dimensional problems was first advocated by Christopher Alexander in the early nineteen sixties (Alexander, 1964). He has subsequently developed and applied the techniques in a series of case studies and conceptual explorations (1977, 1979, 1987 & 2002). The approach avoids top down “Big Picture” and “Strategic Choice” methods (Friend & Jessup, 1982), which may end up by justifying inflexible preconceived solutions summarised in such slogans as “Stop the boats!”

Instead, these methods employ objective-fulfilling methods, which develop and adjust provisional proposals to each other.

It will be noted that in each of these stages, considerable interpretation and intuitive problem solving is required (Popper, 1963; Heywood, 2011, 115- 126). Popper's contention that such problem solving is an innate survival attribute (1963) has gained support from Noam Chomsky's linguistic arguments that "humanity is a species programmed to understand" (Lyons, 1991). Thus the sequential problem solving advocated and employed here is not an attempt to replace imagination by method, but rather a process whereby a maximum amount of imagination can be systematically concentrated on the smallest possible scale of problems, one after another. Later a similar process can be applied to adjust each resulting proposal reciprocally to harmonise with the requirements of others, developed in a like manner. The innate problem solving capacities on which this process relies, are unapologetically, fallible. In this way there is much in common between Alexander's design process and Popper's scientific method (Popper, 1963). Problems of incompatibility or "misfit" between detailed solution requirements of individual objectives are resolved by mutual adjustments, and this process is repeated to achieve coherent policy packages and, finally, an integrated internally consistent overall strategy, in the light of available resources of space, skills, funds and powers. Only after proposals have been tested for correspondence with available facts and values and for consistency with each other can they be confidently adopted, unlike the "crash or crash through" nature of the current "Stop the boats!" policy

This method is singularly appropriate to resolve the multiple conflicts of interests arising in the decentralizing and instantaneously interacting contemporary world. Applied in this section, it uses objectives and solution requirements developed from Stakeholder's stated goals, demonstrated in Table 1. Readers are asked to bear with the rather mechanistic structure of this table by reading across the columns from left to right to follow the problem solving sequence.

Table 1: Stakeholder goals, objectives, solution requirements, arenas & options (to bottom of table, please)

STAKEHOLDERS	GOALS	OBJECTIVES (as depicted in solution tree)	SOLUTION REQUIREMENTS	ARENAS	OPTIONS
International & Human Rights organisations	Compliance with 1951 Convention on Refugees, 1967 Protocol; & Convention on the Rights of the Child	1. Just & transparent processing of asylum seeker applications	<ul style="list-style-type: none"> • Minimize periods of detention • Provide legal assistance 	Places of custody, processing & community accommodation	<ul style="list-style-type: none"> • Reintroduce accountable qualified public sector supervision of custody • Reintroduce prompt and proactive processing in line with Refugee Convention
		2.Maintenance of family unity & life of asylum seekers	<ul style="list-style-type: none"> • Provide humane conditions in processing and holding centres • Comply with UN Convention on the Rights of the Child 	Places of custody & community accommodation	<ul style="list-style-type: none"> • Enhance, expand & fund onshore community care for current asylum seekers & families • Accommodate current appropriate asylum seeking families in community housing
	Respect for human rights	3.Safe Custody & Resettlement	<ul style="list-style-type: none"> • Avoid punitive treatment of asylum seekers • Comply with UN Declaration of Human Rights & Convention on Refugees 	International waters & places of custody	<ul style="list-style-type: none"> • Adopt prompt and proactive processing • Cluster and support re-settlement in suitable locations

Australian Government	Compliance with 1951 Convention & 1967 Protocol on Refugees & Convention on the Rights of the Child	1. Just & transparent processing of asylum seeker applications	<ul style="list-style-type: none"> • Achieve regular & prompt processing of increased refugee admissions in or closer to countries of origin • Minimize periods of detention & provide legal assistance 	<p>Places of custody & community accommodation</p> <p>Countries of, adjacent to, and in transit from, refugee origins</p>	<ul style="list-style-type: none"> • Expand community care and support for current asylum seeker and future refugee families • Develop primary processing centres in, adjacent to, and in transit from, major source countries such as Afghanistan, Syria, Iraq, and Sri Lanka; Pakistan, Indonesia, Malaysia, Thailand & Kenya
		2. Maintain asylum seeker family unity & life	<ul style="list-style-type: none"> • Avoid punitive treatment of asylum seekers • Comply with UN Declaration of Human Rights, Convention & Protocol on Refugees and Convention on the Rights of the Child 	Places of custody & community accommodation	<ul style="list-style-type: none"> • Adopt proactive processing in line with Refugee Convention • Reintroduce accountable qualified public sector supervision of custody
	Legal entry	I. Orderly and regulated means of entry	<ul style="list-style-type: none"> • Divert asylum seekers to legal means of entry • Increase proportion of processing in intermediate countries 	International waters & countries of origin & passage	<ul style="list-style-type: none"> • Collaborate in siting, licensing and funding processing centres in, adjacent to, and in transit from, major source countries such as Afghanistan, Syria, Pakistan, Indonesia, Malaysia, Thailand & Kenya

Border Protection and immigration Personnel	Clear, safe & feasible rules of engagement and operational policies	1.Consistent & humane operational policies	<ul style="list-style-type: none"> • Prompt processing of asylum applications in or as close as possible to countries of origin to forestall maritime encounters. • Acceptable & efficient maritime encounter practices • Ending of send back and tow back practices • Clear and non confrontational Centre management policies 	International Waters	<ul style="list-style-type: none"> • Escort Asylum seeker boats to onshore Processing Centres in agreed locations
	Observe human rights	2.Transparent public access to asylum seeker and holding centre information	<ul style="list-style-type: none"> • Compliance with Universal Declaration of Human Rights 	Processing & Holding Centres	<ul style="list-style-type: none"> • Prompt processing, community accommodation and resettlement
	Consistent fair & timely processing of applications	1. Just processing of asylum seeker applications	<ul style="list-style-type: none"> • Direct or shared Australian Government responsibility for Processing & Custodial centres • Open & fair consideration of claims in accord with 	Countries of origin, passage and destination	<ul style="list-style-type: none"> • Maintain & allocate adequate asylum seeker quotas to intermediate countries.
Asylum seekers and refugees	Consistent fair & timely processing of applications	1. Just processing of asylum seeker applications	<ul style="list-style-type: none"> • Direct or shared Australian Government responsibility for Processing & Custodial centres • Open & fair consideration of claims in accord with 	Processing Centres in agreed locations	<ul style="list-style-type: none"> • Employ & supervise Centre staff who are trained in social and community work and open centres to public scrutiny • Divert funding from Manus island and Nauru Republic to fund Processing Centres

			Refugee Convention		in source, adjacent and transit countries
	Observe human rights	2. Safe custody	<ul style="list-style-type: none"> • Acceptable & efficient refugee encounter practices • Ending of send back and tow back practices • Avoid punitive treatment of asylum seekers • Comply with UN Declaration of Human Rights, Convention on Refugees and UN Convention on the Rights of the Child 	<p>Countries of origin, passage and destination</p> <p>Processing Centres & holding centres in agreed locations</p>	<ul style="list-style-type: none"> • Reintroduce accountable qualified public sector supervision of custody • Achieve prompt and proactive processing • Cluster and support re-settlement in suitable locations
Australian Community	Orderly & stable migration policy	1. Orderly and regulated means of entry	<ul style="list-style-type: none"> • Divert asylum seekers to legal means of entry • Increase proportion of processing in source and intermediate countries 	Processing & holding centres	<ul style="list-style-type: none"> • Develop primary processing centres in, adjacent to, and in transit from, major source countries such as Afghanistan, Syria, Iraq, Sri Lanka, Pakistan, Indonesia, Malaysia, and Thailand & Kenya.
		2. Just & transparent processing of asylum seeker applications	<ul style="list-style-type: none"> • Provide humane conditions in processing and holding centres 	Processing & holding centres	<ul style="list-style-type: none"> • Consult with UNHCR, international NGOs and asylum seeker advocates to develop and implement policies of open governance, scrutiny and efficient process for asylum

					seekers.
	Open governance	1.Transparent public access to asylum seeker information	<ul style="list-style-type: none"> • Introduce system of open processing centres with regular information bulletins, & open visiting 	Processing & holding centres	<ul style="list-style-type: none"> • Reintroduce processes of immediate reporting of asylum seeker events and issues to public media
	Respect for Human Rights	1.Maintain asylum seeker family unity & life	<ul style="list-style-type: none"> • Comply with UN Declaration of Human Rights, Convention on Refugees & Covenant on the Rights of the Child • Avoid punitive treatment of asylum seekers 	Processing & holding centres & community accommodation	<ul style="list-style-type: none"> • Adopt and apply family and child support policies in line with international Convention on the Rights of the Child • Develop non punitive and supportive management policy for holding and detention centres
	Clear, safe & feasible rules of engagement and operational policies	1.Consistent & humane operational policies	<ul style="list-style-type: none"> • Divert asylum seekers to legal means of entry • Increase processing in intermediate countries • Provide humane conditions in holding & detention centres • Introduce system of open Processing Centres with regular information bulletins 	Processing & holding centres in agreed locations	<ul style="list-style-type: none"> • Consult with International NGOs and asylum seeker representatives to implement policies of open governance, scrutiny and access to the courts for asylum seekers • Develop and implement non punitive and supportive management policy for Processing and Holding Centres

			& open visiting		
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12.2 Interaction of Stakeholder Objectives

Mutual support or conflict among objectives determines how solutions can be developed to resolve differences between the goals of the stakeholders. Table 2: Objectives Interaction Matrix identifies the most interactive of the objectives and their specific linkages. Interactions are scored from Very Supportive (+2) through Supportive (+1) Neutral (0) to Conflicting (-1) and Very Conflicting (-2). In discerning the intensity of interaction, whether these are negative or positive is ignored because both types of relationships demand equal attention in recognizing opportunities, conflicts and potential solutions.

Objectives	1	2	3	4	5	6	Total			
1. Just & transparent processing of asylum seeker applications		+1	+2	+1	+1	+2	7			
2. Safe custody	+1		+1	+2	+2	+2	8			
3. Orderly regulated and efficient means of entry	+1	+1		+1	+1	+1	5			
4. Maintenance of family unity & life	+1	+2	+1		+1	+1	6			
5. Transparent public access to asylum seeker information				+1	+2	*1	+1		+2	7

6. Consistent & humane engagement practices	+1	+2	+1	+1	+2		7
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Table 2: Objectives interaction matrix

What emerges from this interaction is that an integrated Australian asylum seeker strategy is not as inherently problematic and the current government asserts conflict ridden as. In seeking to justify their single goal-driven adherence to enforced detention, demonstrative deterrence and avoidance of reporting, government politicians exaggerate the difficulties they face. As an example, “orderly, regulated and efficient means of entry”, if practically achieved, would strongly support many of the “humanitarian” objectives that are being ignored in the government’s concentration on punitive practices to discourage disliked means of entry, particularly unauthorised maritime arrival. Conflicts are also ignored, with international allies, including those with close neighbours such as Indonesia and actual program partners such as Papua New Guinea, which may have very serious long term unintended consequences.

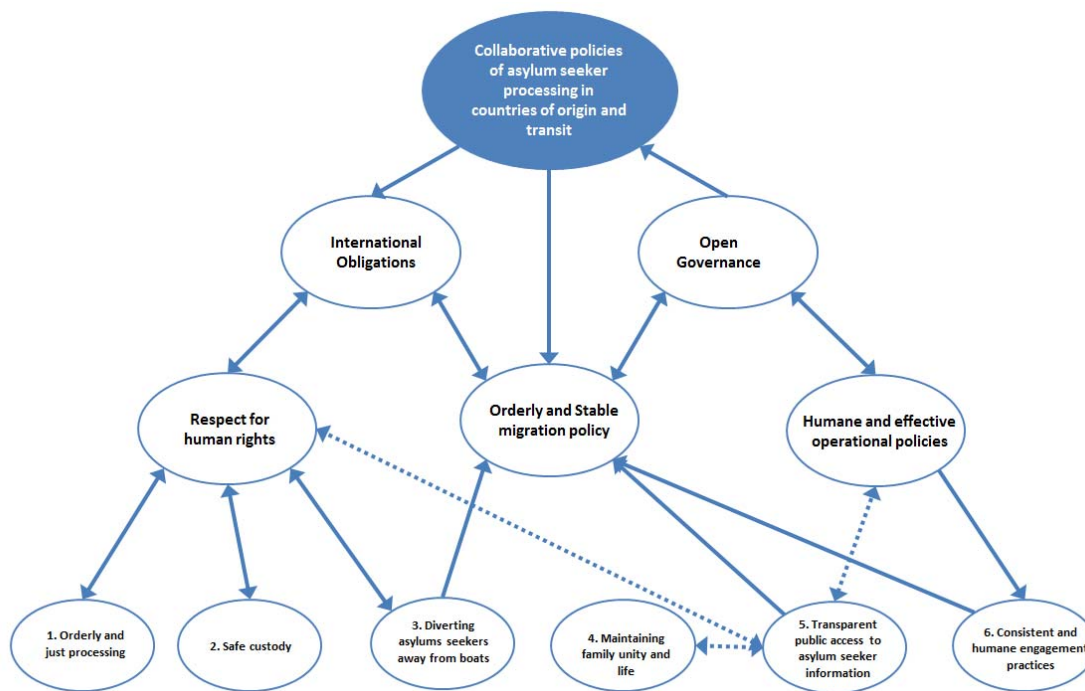


Figure 6: Solution tree of objectives, policy areas, strategies and integrated proposals

12.3 Synthesis of objectives and policy areas into proposals

The six basic objectives, which constitute the diagram's bottom line are derived both from above, from the major concerns of the key stakeholders, and from below, from the solution requirements identified in Table 1. Each of the objectives responds to one or more of the solution requirements identified in Table 1 showing Stakeholder goals, objectives, and options. They are then in turn adjusted to become compatible with each other and with available resources to create viable Policy Areas.

The composition of objectives from solution requirements

Objectives have been shaped in response to their solution requirements:

- *Just and Transparent Processing of Asylum Seeker Applications* reflects requirements to provide open and fair consideration of claims in keeping with the Refugee Convention; avoid punitive treatment of asylum seekers; minimize periods of detention; provide humane conditions in holding and detention centres; and ensure access to legal assistance.
- *Safe Custody* reflects requirements to provide humane conditions in processing and holding centres, comply with the Universal Declaration of Human Rights and Convention on

Refugees, adopt acceptable and accountable refugee encounter practices and maintain direct Australian government responsibility for processing and custody with qualified public sector supervision.

- *Orderly, regulated and efficient means of entry* reflects requirements to discourage asylum seeker recourse to arrival by boats through regular and energetic processing of increased intakes of refugees closer to countries of origin and transit, introduce improved and acceptable encounter practices, reintroduce direct Australian government responsibility for processing and custodial centres with qualified public sector supervision; and end the international stalemates, conflicts and asylum seeker deaths which have resulted from the recent send-back and tow-back practices.
- *Maintenance of family unity and life* reflects requirements to avoid punitive treatment, provide humane conditions in holding & detention centres, comply with the Universal Declaration of Human Rights and Conventions on Refugees and the Rights of the Child, adopt acceptable and accountable refugee encounter practices and maintain direct Australian government responsibility for processing and custody.
- *Transparent Public Access to Asylum seeker information* reflects requirements for efficient and humane refugee encounter practices, direct Australian government responsibility for processing and holding centres, transparent and fair consideration of applications, open visiting, regular information bulletins and maintenance of the country's heritage of free speech and information.
- *Consistent and humane engagement practices* combines requirements to ensure humane conditions in processing and holding centres, offer open visiting, provide immediate media access to information, with ones to divert asylum seekers to legal and safe means of entry and increase processing in countries adjacent or in transit from their countries of origin.

12.4 The composition of policy areas from objectives

It will be seen from Figure 6 that these six basic objectives interact to form three policy areas. The first, respect for human rights, reflects concerns of international organisations about increasing frequency and seriousness of reported breaches, and of Australian community spokespeople about the dangers of precedents for long term erosion of rights and respect for international agreements and open governance. Orderly and stable migration policy, again the concern of the Australian community, is also a long term interest and need for any Australian government. The third, the

adoption of clear and humane operational policies, is not only a daily necessity for the border protection and migration personnel responsible for its implementation, but also an important consideration for international and humanitarian organisations, the wider Australian community, and the national government, which needs to develop less disaster-prone practices.

Responses to each of the six identified objectives can now be adjusted to contribute to these policy areas, which can, in turn, be integrated into a coherent strategy.

- **Just and transparent processing of asylum seeker applications**

In relating to other objectives, links with Objective 2, safe custody, are moderately positive because safety is more likely in well administered processing centres dealing promptly with applications, which should diminish pressures for self-harming and suicide. Consistency with Objective 3, government's commitment to regulated off shore processing, can be achieved by open and accountable administration of centres, including Australian government staff. Objective 4, to maintain family unity and life, is strongly supported because an orderly and just system should enhance predictability and maintenance of family life. Objective 5, transparent public access to asylum seeker information will also benefit from open processing and will in return assist transparency. Orderly and just processing of asylum seekers is thus an integral component of an overall strategy, further supported by the increased provision of places recommended in the 2012 Houston Report (Australian Government 2012).

- **Safe Custody**

This objective has overall the highest level of positive interaction with other objectives. Especially orderly and just processing through reduction of self-harming and diminished recourse to violence and proneness to deaths in custody. Relations with orderly and regulated means of entry should reduce deaths on the high seas. The mutual support resulting from maintaining family life will both promote and benefit safe custody. Transparent public access to information will also strongly support safe custody by diminishing tendencies to malpractice and violence which breed best in dark corners.

- **Orderly and regulated means of entry**

Relations with other objectives are potentially positive. Orderly and just processing and safe custody will be favoured within processing centres located off shore but including Australian personnel and should also help maintain family unity and life. Regulated entry should benefit

from transparent public access to information, which is essential to sustain any successful strategy. Orderly and regulated entry would resolve increasing concerns about the damage being done to the country's culture of open governance by the suppression of information about asylum seeker events and treatment. It should be noted that these positive outcomes depend on Australian Government acceptance of shared responsibility and management for overseas holding and processing centres.

Concerns over adequacy of quotas and funding have been reduced by recent government decisions to expand annual humanitarian and refugee quotas to 20,000 a year and to allocate the large sum of \$2.87 billion in the 2014 budget to administer off shore processing, dubbed "Border Protection". These quotas and funds could support alternative proactive policies of regional cooperation, bringing the aim of orderly and regulated entry into line with international and humanitarian commitments to open and legal operational practices and governance.

- **Maintenance of family unity and life**

Family life interacts well with other objectives. Short-term family accommodation would be assisted by orderly and just processing. Safe custody would be promoted by stronger family support. Orderly, regulated and safe means of entry would assist whole families to make inherently less dangerous journeys to processing centres closer to their countries of origin. Transparent access to information would also support the maintenance of family life through media interest in such matters. Current asylum seeker policies are especially damaging to the family lives of children who find themselves separated from parents or relatives under existing deterrence-based regimes. By contrast, the objectives-based policy process being elaborated here interacts well with other objectives to promote the unity and quality of life of asylum seeker families.

- **Transparent public access to asylum seeker information**

This public interest concern is strongly linked to other objectives. Orderly and just processing of applications is supported by transparent media and welfare agency access to information and to the centres themselves. Free and transparent information should promote safe custody and reinforces maintenance of family life and unity.

- **Consistent and humane engagement and operational practices**

Links with other objectives are generally supportive. Orderly and just processing of applications will contribute to consistent and humane operational practices and assist safe custody. Increased processing in intermediate countries can promote humane engagement by using \$2-3 billion funds diverted from current “Border Force” & “Border Protection” budgets. The Houston Report’s recommendation 20,000 humanitarian and 12,000 refugee admissions per year, rising to a medium term level of 27,000 would support this policy. This kind of off shore processing should not extinguish emergency access to onshore processing and holding centres, albeit conferring lower priority than that enjoyed by applicants simultaneously applying offshore.

12.5 The Content of the Policy Areas & their Proposals

These objectives can be adjusted, combined and amplified to create the following internally consistent policy areas:

- Respect for human rights (reflecting the concerns of the international community);
- Orderly and stable migration policy (reflecting the concerns of the national governments and
- The wider Australian community); and
- Clear, humane and consistent operational policies (reflecting the needs of the border protection and migration control personnel and the asylum seekers themselves).

- **Respect for human rights**

Respect for human rights enshrined in such international agreements as the Convention on Refugees, should transcend national laws when people are fleeing from persecution (UNHCR, 2011). These provisions imply rights to orderly and just processing, safe custody and maintenance of family unity. They also require orderly processing and safe, family-friendly custody in conditions of transparent public information for any asylum seekers who still find themselves at risk on the high seas in attempts to reach Australian shores, albeit with lower processing priority than those who apply at official offshore centres.

- **Orderly and stable migration policy**

To establish orderly, regulated and just means of entry and safe, family-friendly custody there must be systematic and effective processes. Regional collaboration will be required; involving new and enhanced processing centres closer to countries of origin and on likely routes of transit, as well as increased funding for UNHCR centres where they already exist. Australia would need to negotiate agreements to fund and help manage custodial centres for asylum seekers in such countries while claims for refugee status were being considered.

This could involve diverting funds from the current unsatisfactory and very expensive detention camps on Manus Island and the Republic of Nauru. Holding periods should be limited to 3-6 months, after which claimants would either be accepted as refugees to Australia, returned to their countries of origin or sent to alternative destinations of their choice. Each centre would be allocated a provisional annual quota for asylum seekers.

It is significant that the most recent actual development in the volatile elaboration of Australian refugee policy is diametrically opposed to this direction, although it logically reflects the government's oft-repeated objectives of discouraging recourse to unauthorised means of entry and loss of life at sea.

“We’re trying to stop people thinking that it’s O.K. to come into Indonesia and use that as a awaiting ground to get to Australia”

Minister Morrison told ABC radio (Whyte, 2014). This statement clearly implies a dereliction of Australia's duty of care for asylum seekers under the Refugees Convention to which the country is a founding signatory. The minister seems oblivious to these responsibilities and the major difficulties to which their abandonment will inevitably cause with powerful regional neighbours like Indonesia.

- **Consistent, humane and effective operational policies**

This policy area draws together concerns for orderly entry, safe family-friendly processing and transparent governance to promote clear operating practices for border protection and immigration personnel. Published protocols, reflecting the UN Declaration of Human Rights, the UN Convention and Protocol on the Rights of Refugees (2011) and the UN Covenant on the Rights of the Child (UNICEF, 2014) would regulate conditions in processing centres with processing times of 3-6 months. International obligations to those in need on international waters

would be accepted and on shore processing centres would be re-opened for this purpose. Rules of engagement for Australian naval and border protection personnel would establish guidelines for rescue and escort of asylum seeker boats to safe onshore destinations, to wait processing in sequence behind those applying at the same time at off shore centres.

12.6 The Integrated Strategy

By contrast, the Australian Government's current policies are likely to prove unsustainable in their pursuit of their original single goal of "stopping the boats", and their recent added implicit aim of avoiding responsibility for arbitrarily designated groups of asylum seekers, such as those processed by the UNHCR in Indonesia. Because they are so politically contentious, economically exorbitant internationally unacceptable, and internally inconsistent they involve repeated conflicts with international treaty obligations and relations with neighbours. Genuine opportunities exist to achieve the declared goal of discouraging asylum seeker recourse to irregular methods of boat arrival, whilst restoring the country's international reputation and avoiding damaging domestic precedents of violations against human rights and open governance.

One major problem currently encouraging unauthorised maritime arrival is the length of processing time involved in seeking legitimate UNHCR processing. When faced with the option of waiting for years for an application outcome, thousands choose to risk their lives and spend their life savings to board boats bound for Australia. Reducing the queuing time would help to discourage such dangerous and expensive boat journeys. Even a fraction of what is currently budgeted to imprison people who haven't broken any laws, could drastically reduce wait times and decrease recourse to boat arrival.

The Government budget for 2013-2014 increased expenditure by 30% to \$ 2.87 billion for offshore processing (Australian Churches Refugee Taskforce, 2014, RCoA, 2014). To re-introduce onshore and community based processing would be far less costly. A budget submission by the Australian Churches Refugee Taskforce highlighted the need for a complete review of asylum seeker spending policy, arguing that current very large outlays are excessive and could be significantly reduced by community-based processes (Australian Churches Refugee Taskforce, 2014).

Table 2, Aims, resources, constraints and solutions, indicates how these would be achieved, taking account of available resources, prevalent operational constraints and resultant solution elements.

AIMS	RESOURCES	CONSTRAINTS	INSTRUMENTS
1. Comply with international humanitarian obligations	<ul style="list-style-type: none"> • Recommendation of 2012 Expert Panel on Asylum Seekers (Houston Report) to increase annual humanitarian admission quota to 20,000 and subsequently 27,000 asylum seekers. • Existing funding of \$2.87 bill per year for current deterrence policies. 	<ul style="list-style-type: none"> • Dangers to vulnerable asylum seekers of unregulated and unsafe boat journeys. • Dislike & fears of increased numbers of asylum seekers reaching Australia by boat held by many Australians 	<ul style="list-style-type: none"> • Use of current \$2.87 billion deterrence budget to fund collaborative processing for 12,000-16,000 refugees per year in neighbouring and intermediate countries
2. Cooperate with UNHCR and other international and regional partners, including such directly affected countries as Indonesia, Pakistan, Afghanistan, Syria, Kenya and South Sudan to provide rapid processing closer to countries of origin.	<ul style="list-style-type: none"> • UNHCR response & processing capacities of systems, centres, refugee camps and personnel • Australian capacity to offer financial and policy support for third party bilateral and regional collaboration 	<ul style="list-style-type: none"> • Dangers of over-taxing existing UNHCR capacities • Need to supersede negative stance of 2002 “Bali Process on People Smuggling” with more proactive regional processing policies • Recognition of national sovereignty rights of collaborative partners. 	<ul style="list-style-type: none"> • Collaborative management of regional asylum with complementary roles for UN, regional and national governments and voluntary organisations

<p>3. Process onshore refugee claims of current detainees held on Manus Island and in Republic of Nauru</p>	<ul style="list-style-type: none"> • Existing staff and facilities for Australian processing and detention of asylum seekers. • Potential for redirection of large funding for offshore processing to resume on shore processing • Provision of home based community accommodation offered by faith-based organisations (Uniting Care etc.) 	<ul style="list-style-type: none"> • Possible encouragement for asylum seekers to resort to irregular boat travel • Political embarrassment of public policy reversal. 	<ul style="list-style-type: none"> • Provision of quicker, safer & less costly options for asylum seekers for processing in locations closer to countries of origin. • Non- punitive processing policies resulting in large budget savings. • Allocation of later onshore quota priority to that accorded to off shore applicants.
<p>4. Effectively scrutinise & assess all asylum claims</p>	<ul style="list-style-type: none"> • Established capacity to process claims and review decisions fairly & openly. • Australian compliance to UN Refugees Convention & Protocol. 	<ul style="list-style-type: none"> • Pressure of periodically high numbers of refugee claims. • Need to achieve speedy processing of claims in less time than taken by irregular boat journeys 	<ul style="list-style-type: none"> • Collaboration with expert and experienced UNHCR staff • Use of expert Australian Public Service staff • Collaboration with network of partner countries, Interpol and ASIO
<p>5. Ensure non-discriminatory assessment & re-settlement policy, applying open</p>	<ul style="list-style-type: none"> • Collaboration with UN & regional partners • Commonwealth Migration and Racial Discrimination Acts 	<ul style="list-style-type: none"> • Widespread practice of xenophobic and racist discourse in Australian commercial print, radio and TV media. 	<ul style="list-style-type: none"> • Increased role and support for Australian Human Rights Commission • Maintain and enforce

criteria devoid of covert ethnic or national stereotypes or prejudices	<ul style="list-style-type: none"> • Existence of well established ethnic communities in many parts of Australia. • Available space in existing low density urban & rural locations throughout continental nation 	<ul style="list-style-type: none"> • Large current cuts in Commonwealth and State Government grants for public and ethnic broadcasters and community development programs 	<p>legal sanctions of Racial Discrimination Act against hateful and bigoted commentary in media.</p> <ul style="list-style-type: none"> • Increased emphasis on collaboration with human rights organisations and NGOs, including Federation of Ethnic Community Councils of Australia (FECCA), and faith-based organisations to promote national pride in multicultural heritage Renaming and re-orientation of Australian Department of Immigration & Border Protection
6. Pursue energetic programs to process, consult and resettle 20,000-30,000 refugees each year, distributed throughout all states, territories, major cities and many rural areas	<ul style="list-style-type: none"> • Existing organisations and networks in metropolitan, regional and rural locations • Capacity to divert multibillion dollar deterrent and punitive policies into resettlement programs • Willingness of faith based organisations to 	<ul style="list-style-type: none"> • Need to balance assistance for refugee resettlement with social housing provisions for existing groups and individuals in housing stress. • Need to control hate and bigotry-based commentary in media. 	<ul style="list-style-type: none"> • Encouragement and subsidies for existing ethnic communities to promote active programs of social inclusion and problem solving. • Resumption of earlier successful government - sponsored multi cultural policies promoting ethnic inclusion in

with existing ethnic communities	provide community support <ul style="list-style-type: none"> • Available spaces for assisted location of resettled refugees 		media, education, culture, and sport.
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Table 2: Aims, resources, constraints and instruments

It is significant that for Europe, the UNHCR is moving to a similar policy of supported offshore processing of migrants and asylum seekers closer to countries of origin and along transit routes, in places such as Libya, Egypt and Sudan, in order to manage the rapidly escalating numbers who attempt the dangerous and often fatal crossing of the Mediterranean (Sherwood, Smith, Davies and Grant, 2014). The shift in the UNHCR's position – and the growing clamour from Greece and Italy for action – comes as 2014 figures show a rapidly accelerating problem with boat arrivals amounting to about 42,000 in the first five months (Frontex, 2014) This EU agency was established in 2004, as the “European Agency for the Management of Operational Cooperation at the External Borders of the Member States” in order to manage access to its 42,000 km of coastline, 9,000 km of land borders and 300 international airports It offers a more collaborative response to the challenge of uncertain contemporary conditions than current Australian government practices

13. Conclusions

In analysing Australia's current and potential policy responses to the global plight of asylum seekers, we have pursued aims of both substance and method. Substantively, we have aimed to demonstrate that in the increasingly conspicuous field of international refugee policy, Australia's current reliance on policies of deterrence pose alarming dangers of a downward spiral towards policy formulation by slogan. Sophisticated contemporary societies depend for their prosperity and cohesion upon increased, not diminished, collaboration and empathy to support the cognitive and social awareness of their populations, in global relations as much as domestic management. The internationalism of the twentieth century's Universal Declaration of Human Rights and Refugees Convention can be either taken forward towards mutual responsibilities and trust, or driven backwards, to ignore the plight of countless victims of outbreaks of brutal racism and repression.

13.1 Alternative Policies

In the Australian case, closer compliance with international obligations could be achieved within current admissions targets and funding levels. Quotas of 20,000 humanitarian admissions per year (including 13,500 refugee places) and subsequent incremental increases up to 27,000 would be administratively manageable, and could make use of funds diverted from current deterrent practices. International cooperation with UNHCR and bilateral and multilateral agreements to fund and operate processing and holding centres closer to asylum seekers' countries of origin could replace current expensive military-style operations against those fleeing oppression. Cessation of the disaster-prone detention of approximately four thousand asylum seekers in Papua New Guinea's Manus Island and the impoverished Republic of Nauru, could involve re-opening mothballed Australian onshore processing and detention centres, which could again be subject to proper scrutiny and control.

A UNHCR commissioned report found that the cost per day for holding an asylum seeker offshore was \$339 per day, compared with the cost of community based processing estimated at between \$7 and \$39, depending on the level of government support (Cullen, 2012). Transfer of those four thousand people currently in offshore detention on Christmas Island, Nauru, and Manus Islands, to onshore community based processing would be a more cost effective, as well as a more humane and less accident-prone solution. Additionally, there is already infrastructure in place for onshore processing centres, which would provide a viable alternative for those currently in offshore detention centres, many of whom have had to endure protracted and distressing detention.

Those who are still driven to seek to arrive by boat would be held in onshore holding centres in Australia, less expensive and better supervised than those in Nauru and Manus Island, until their turn for processing comes, behind that of those applying in official off shore processing centres. Appropriate and integrated resettlement of processed refugees throughout Australia's cities and rural centres would involve cooperation with existing ethnic community organisations. The diverse range of cultures and religions of people seeking asylum in Australia, could be matched by planned integration into existing social networks, which already include virtually every culture likely to seek asylum. For newly accepted refugees, a collaborative regional support network within Australia is financially feasible, given the large savings from offshore deterrence in transferring those currently in Christmas Island, Manus Island and the Republic of Nauru. Collaboration in funding and management with the UNHCR and regional partners could also assist effective and non-discriminatory scrutiny and processing. Providing this support for a suggested 20,000 humanitarian

applicants per year, would total 200,000 in a decade, which is scarcely 1% of a population of over 23,000,000.

13.2 Appropriate Methods of Policy Development

There are two sets of conclusions for policy development methods. First, we have demonstrated how practical and transparent methods can be developed to satisfy the wide-ranging criteria of the diverse stakeholders involved in developing consensual policies. Techniques of synthesis can match and resolve the complexity and multiplicity of a shrinking and decentralising world. Progressive problem solving can apply successive cycles of consultation, conjecture, refutation and reformulation to optimise responses to the objectives of many participants. Sequentially applied, these can promote compatibility among proposed solutions and with available resources and spaces. We have aimed to demonstrate that Australian political and public concern to restrict boat-borne arrival of refugees along the country's long and exposed shorelines can be made compatible with long standing international commitments to provide asylum for refugees fleeing persecution, by providing more legitimate and secure paths and processing centres, closer to countries of origin. Our economic analysis shows that these collaborative processes are less expensive than current policies of punitive deterrence, which offend many major objectives of legitimate stakeholders. By contrast, recourse to policies designed to satisfy the demands of such emotive "top down" slogans as "Stop the boats!" is unlikely to produce implementable and efficient outcomes.

Second, this issue is only one among many challenges confronting policy making in contemporary societies, just one instance of the many-sided problems, affecting multiple stakeholders, which are destined to become increasingly common due to the expanding scale and scope of contemporary globalisation and technological change. Similar emerging many sided issues include:

- National carbon emissions contributing to global climate change
- Rights and regulation of mineral exploration and extraction in polar regions
- Protection of world heritage listed habitats and environments
- Managing international flow and security of electronic information
- Reconciling direct foreign investment and protection of local land ownership
- Regulating international indentured labour and human trafficking
- Control of commercial and military use and pollution of the upper atmosphere.

The importance of such issues mean that in the near future globally acceptable policies are destined to become as important as compliant legal behaviour already is within nation states. Because simplistic nationalistic slogans like “Stop the boats!” cannot match or manage such complex problems, consultative, consensual and transparent methods of policy development are required.

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